

Executive Summary – Enforcement Matter – Case No. 43378
Jackie C. Underwood dba Tire Outlet
RN101858496, RN106260870, RN106247448, and RN106247612
Docket No. 2012-0195-MSW-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MSW

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Tire Outlet, 537 State Highway 114, Boyd, Wise County

Tire Outlet, 109 North Wilson Street, Boyd, Wise County

Tire Outlet, 1864 County Road 4764, Boyd, Wise County

Tire Outlet Storage Site, 908 East Rock Island Avenue, Boyd, Wise County

Type of Operation:

Scrap tire storage facility and tire disposal site

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: The complainant has expressed an interest in this matter but does not wish to speak at Agenda.

Texas Register Publication Date: September 14, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$47,500

Amount Deferred for Expedited Settlement: \$9,500

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,075

Total Due to General Revenue: \$36,925

Payment Plan: 35 payments of \$1,055 each

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - N/A

Site/RN - N/A

Major Source (RN101858496, RN106247448, RN106260870): Yes

Major Source (RN106247612): No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2011

Executive Summary – Enforcement Matter – Case No. 43378
Jackie C. Underwood dba Tire Outlet
RN101858496, RN106260870, RN106247448, and RN106247612
Docket No. 2012-0195-MSW-E

Investigation Information

Complaint Date(s): August 17, 2011

Complaint Information: Alleged that tires were being stockpiled at this location and two other sites.

Date(s) of Investigation: September 22, 2011

Date(s) of NOE(s): December 16, 2011

Violation Information

1. At the Facility, failed to obtain a generator registration and scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers, or in enclosed or lockable containers. Specifically, Respondent was storing approximately 2,800 used or scrap tires on the ground [30 TEX. ADMIN. CODE §§ 328.56(a)(1) and (d)(2) and 328.60(a)].
2. At Site 1, failed to obtain a scrap tire storage site registration prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers, or in enclosed or lockable containers. Specifically, Respondent was storing approximately 800 used or scrap tires on the ground [30 TEX. ADMIN. CODE § 328.60(a)].
3. At Site 2, failed to obtain a scrap tire storage site registration prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers, or in enclosed or lockable containers. Specifically, Respondent was storing approximately 3,000 used or scrap tires on the ground [30 TEX. ADMIN. CODE § 328.60(a)].
4. At Site 3, failed to prevent the unauthorized disposal of MSW. Specifically, approximately 30 cubic yards of scrap tires and three cubic yards of metal, plastic, brush piles, roofing shingles, and drums were disposed of at the Site [30 TEX. ADMIN. CODE § 330.15(c)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to:

- a. Immediately:
 - i. Cease accepting any additional scrap tires at the Facility, Site 1, Site 2 and Site 3; and
 - ii. Cease disposing of any additional MSW at Site 3.

Executive Summary – Enforcement Matter – Case No. 43378
Jackie C. Underwood dba Tire Outlet
RN101858496, RN106260870, RN106247448, and RN106247612
Docket No. 2012-0195-MSW-E

b. Within 30 days:

i. Obtain a generator registration for the Facility;

ii. Obtain a scrap tire storage site registration or reduce the number of tires being stored on-site to 500 or less on the ground and/or 2,000 tires in enclosed and lockable containers at the Facility; and

iii. Obtain a scrap tire storage site registration or reduce the number of tires being stored on-site to 500 or less on the ground and/or 2,000 tires in enclosed and lockable containers at Site 1 and Site 2.

c. Within 60 days, remove all scrap tires and other MSW from Site 3 and dispose at an authorized facility.

d. Within 75 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Thomas Greimel, Enforcement Division, Enforcement Team 7, MC 128, (512)239-5690; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Jackie C. Underwood, Owner, Tire Outlet, P.O. Box 1525, Boyd, Texas 76023

Respondent's Attorney: Arturo D. Rodriguez, Russell & Rodriguez, L.L.P., 1633 Williams Drive, Georgetown, Texas 78628

Kerry Russell, Russell & Rodriguez, L.L.P., 1633 Williams Drive, Georgetown, Texas 78628



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

DATES	Assigned	5-Jan-2012	Screening	17-Jan-2012	EPA Due	
	PCW	31-May-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Jackie C. Underwood dba Tire Outlet ("Facility")		
Reg. Ent. Ref. No.	RN101858496		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	43378	No. of Violations	1
Docket No.	2012-0195-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Waste Tires	Enf. Coordinator	Thomas Greimel
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,000
---	-------------------	----------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0.0%	Enhancement	Subtotals 2, 3, & 7	\$0
---------------------------	------	-------------	--------------------------------	-----

Notes: No adjustment for compliance history.

Culpability	No	0.0%	Enhancement	Subtotal 4	\$0
--------------------	----	------	-------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	-----

Economic Benefit	0.0%	Enhancement*	Subtotal 6	\$0
-------------------------	------	--------------	-------------------	-----

Total EB Amounts \$470
Approx. Cost of Compliance \$10,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$15,000
-----------------------------	-----------------------	----------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$15,000

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$15,000
-----------------------------------	-------------------------------	----------

DEFERRAL	20.0%	Reduction	Adjustment	-\$3,000
-----------------	-------	-----------	-------------------	----------

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$12,000
------------------------	----------

Screening Date 17-Jan-2012

Docket No. 2012-0195-MSW-E

PCW

Respondent Jackie C. Underwood dba Tire Outlet ("Facility")

Policy Revision 3 (September 2011)

Case ID No. 43378

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101858496

Media [Statute] Municipal Solid Waste

Enf. Coordinator Thomas Greimel

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 17-Jan-2012

Docket No. 2012-0195-MSW-E

PCW

Respondent Jackie C. Underwood dba Tire Outlet ("Facility")

Policy Revision 3 (September 2011)

Case ID No. 43378

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101858496

Media [Statute] Municipal Solid Waste

Enf. Coordinator Thomas Greimel

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 328.56(a)(1) and (d)(2) and 328.60(a)

Violation Description

Failed to obtain a generator registration and scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers, or in enclosed or lockable containers. Specifically, the Respondent was storing approximately 2,800 used or scrap tires on the ground.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 4

117 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Four monthly events are recommended from the investigation date of September 22, 2011 to the January 17, 2012 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$470

Violation Final Penalty Total \$15,000

This violation Final Assessed Penalty (adjusted for limits) \$15,000

Economic Benefit Worksheet

Respondent Jackie C. Underwood dba Tire Outlet ("Facility")
Case ID No. 43378
Reg. Ent. Reference No. RN101858496
Media Municipal Solid Waste
Violation No. 1

Percent Interest 5.0
Years of Depreciation 15

Item Cost **Date Required** **Final Date** **Yrs** **Interest Saved** **Onetime Costs** **EB Amount**
Item Description No commas or \$

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs	\$10,000	22-Sep-2011	30-Aug-2012	0.94	\$470	\$470
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register the Facility as a generator and scrap tire storage facility. The Date Required is the investigation date. The Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal			0.00	\$0	\$0	\$0
Personnel			0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling			0.00	\$0	\$0	\$0
Supplies/equipment			0.00	\$0	\$0	\$0
Financial Assurance [2]			0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$470

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603970682	Underwood, Jackie C.	Classification:	Rating:
Regulated Entity:	RN101858496	Tire Outlet	Classification:	Site Rating:
ID Number(s):	MUNICIPAL SOLID WASTE NON PERMITTED	ID NUMBER		R04101858496
Location:	537 STATE HWY 114, BOYD, TX, 76023			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	January 26, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 26, 2007 to January 26, 2012			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Thomas Greimel	Phone:	(512) 239-5690	

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 12/13/2011 (956328)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	19-Dec-2011	Screening	17-Jan-2012	EPA Due	
	PCW	31-May-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Jackie C. Underwood dba Tire Outlet ("Site 1")		
Reg. Ent. Ref. No.	RN106260870		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	43378	No. of Violations	1
Docket No.	2012-0195-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Waste Tires	Enf. Coordinator	Thomas Greimel
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$15,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes No adjustment for compliance history.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$470
Approx. Cost of Compliance \$10,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$15,000**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$15,000**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$15,000**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$3,000**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$12,000**

Screening Date 17-Jan-2012

Docket No. 2012-0195-MSW-E

PCW

Respondent Jackie C. Underwood dba Tire Outlet ("Site 1")

Policy Revision 3 (September 2011)

Case ID No. 43378

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106260870

Media [Statute] Municipal Solid Waste

Enf. Coordinator Thomas Greimel

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 17-Jan-2012

Docket No. 2012-0195-MSW-E

PCW

Respondent Jackie C. Underwood dba Tire Outlet ("Site 1")

Policy Revision 3 (September 2011)

Case ID No. 43378

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106260870

Media [Statute] Municipal Solid Waste

Enf. Coordinator Thomas Greimel

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 328.60(a)

Violation Description

Failed to obtain a scrap tire storage site registration prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers, or in enclosed or lockable containers. Specifically, the Respondent was storing approximately 800 used or scrap tires on the ground.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release			
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			
	X		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 4

117 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Four monthly events are recommended from the September 22, 2011 investigation date to the January 17, 2012 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$470

Violation Final Penalty Total \$15,000

This violation Final Assessed Penalty (adjusted for limits) \$15,000

Economic Benefit Worksheet

Respondent Jackie C. Underwood dba Tire Outlet ("Site 1")
 Case ID No. 43378
 Reg. Ent. Reference No. RN106260870
 Media Municipal Solid Waste
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	22-Sep-2011	30-Aug-2012	0.94	\$470	n/a	\$470
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to register the Site as a scrap tire storage site. The Date Required is the investigation date. The Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$470

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603970682	Underwood, Jackie C.	Classification:	Rating:
Regulated Entity:	RN106260870	Tire Outlet	Classification:	Site Rating:
ID Number(s):	MUNICIPAL SOLID WASTE NON PERMITTED	ID NUMBER		R041062608
Location:	109 N WILSON ST, BOYD, TX, 76023			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	January 26, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 26, 2007 to January 26, 2012			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Thomas Greimel	Phone:	(512) 239-5690	

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? NO
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
6. Rating Date: N/A Repeat Violator: N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 12/13/2011 (958794)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	19-Dec-2011	Screening	17-Jan-2012	EPA Due	
	PCW	24-Jan-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Jackie C. Underwood dba Tire Outlet ("Site 2")		
Reg. Ent. Ref. No.	RN106247448		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	43378	No. of Violations	1
Docket No.	2012-0195-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Waste Tires	Enf. Coordinator	Thomas Greimel
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$15,000
---	-------------------	----------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
---------------------------	------------------	--------------------------------	-----

Notes: No adjustment for compliance history.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
--------------------	----	------------------	-------------------	-----

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
--	-------------------	-----

Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
-------------------------	-------------------	-------------------	-----

Total EB Amounts: \$470
Approx. Cost of Compliance: \$10,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$15,000
-----------------------------	-----------------------	----------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	------	-------------------	-----

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$15,000
-----------------------------	----------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$15,000
-----------------------------------	-------------------------------	----------

DEFERRAL	20.0% Reduction	Adjustment	-\$3,000
-----------------	-----------------	-------------------	----------

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$12,000
------------------------	----------

Screening Date 17-Jan-2012

Docket No. 2012-0195-MSW-E

PCW

Respondent Jackie C. Underwood dba Tire Outlet ("Site 2")

Policy Revision 3 (September 2011)

Case ID No. 43378

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106247448

Media [Statute] Municipal Solid Waste

Enf. Coordinator Thomas Greimel

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 17-Jan-2012

Docket No. 2012-0195-MSW-E

PCW

Respondent Jackie C. Underwood dba Tire Outlet ("Site 2")

Policy Revision 3 (September 2011)

Case ID No. 43378

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106247448

Media [Statute] Municipal Solid Waste

Enf. Coordinator Thomas Greimel

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 328.60(a)

Violation Description

Failed to obtain a scrap tire storage site registration for the Site prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers, or in enclosed or lockable containers. Specifically, the Respondent was storing approximately 3,000 used or scrap tires on the ground.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 15.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$21,250

\$3,750

Violation Events

Number of Violation Events 4

117 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$15,000

Four monthly events are recommended from the investigation date of September 22, 2011 to the January 17, 2012 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$470

Violation Final Penalty Total \$15,000

This violation Final Assessed Penalty (adjusted for limits) \$15,000

Economic Benefit Worksheet

Respondent Jackie C. Underwood dba Tire Outlet ("Site 2")
Case ID No. 43378
Reg. Ent. Reference No. RN106247448
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	22-Sep-2011	30-Aug-2012	0.94	\$470	n/a	\$470

Notes for DELAYED costs

Estimated cost to register the Site as a scrap tire storage site. The Date Required is the investigation date. The Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$470

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603970682	Underwood, Jackie C.	Classification:	Rating:
Regulated Entity:	RN106247448	Tire Outlet	Classification:	Site Rating:
ID Number(s):	MUNICIPAL SOLID WASTE NON PERMITTED	ID NUMBER		R04106247448
Location:	1864 COUNTY ROAD 4764, BOYD, TX, 76023			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	January 26, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 26, 2007 to January 26, 2012			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Thomas Greimel	Phone:	(512) 239-5690	

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? NO
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 12/13/2011 (958795)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	19-Dec-2011	Screening	17-Jan-2012	EPA Due	
	PCW	24-Jan-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Jackie C. Underwood dba Tire Outlet ("Site 3")		
Reg. Ent. Ref. No.	RN106247612		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	43378	No. of Violations	1
Docket No.	2012-0195-MSW-E	Order Type	1660
Media Program(s)	Municipal Solid Waste	Government/Non-Profit	No
Multi-Media	Waste Tires	Enf. Coordinator	Thomas Greimel
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$2,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **0.0%** Enhancement **Subtotals 2, 3, & 7** \$0

Notes No adjustment for compliance history.

Culpability No **0.0%** Enhancement **Subtotal 4** \$0

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$0

Economic Benefit **0.0%** Enhancement* **Subtotal 6** \$0

Total EB Amounts \$29
Approx. Cost of Compliance \$567
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$2,500

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$2,500

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$2,500

DEFERRAL **20.0%** Reduction **Adjustment** -\$500

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$2,000

Screening Date 17-Jan-2012

Docket No. 2012-0195-MSW-E

PCW

Respondent Jackie C. Underwood dba Tire Outlet ("Site 3")

Policy Revision 3 (September 2011)

Case ID No. 43378

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106247612

Media [Statute] Municipal Solid Waste

Enf. Coordinator Thomas Greimel

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

N/A

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for compliance history.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 0%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 0%

Screening Date 17-Jan-2012

Docket No. 2012-0195-MSW-E

PCW

Respondent Jackie C. Underwood dba Tire Outlet ("Site 3")

Policy Revision 3 (September 2011)

Case ID No. 43378

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN106247612

Media [Statute] Municipal Solid Waste

Enf. Coordinator Thomas Greimel

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 330.15(c)

Violation Description

Failed to prevent the unauthorized disposal of municipal solid waste. Specifically, approximately 30 cubic yards of scrap tires and three cubic yards of metal, plastic, brush piles, roofing shingles, and drums were disposed of at the Site.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

The environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2

117 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$2,500

Two quarterly events are recommended from the investigation ending on September 22, 2011 to the January 17, 2012 screening date.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$29

Violation Final Penalty Total \$2,500

This violation Final Assessed Penalty (adjusted for limits) \$2,500

Economic Benefit Worksheet

Respondent Jackie C. Underwood dba Tire Outlet ("Site 3")
Case ID No. 43378
Req. Ent. Reference No. RN106247612
Media Municipal Solid Waste
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$567	22-Sep-2011	30-Sep-2012	1.02	\$29	n/a	\$29
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove 33 cubic yards of scrap tires, metal, plastic, brush, roofing shingles, and drums from the Site and dispose of it at an authorized facility. The Date Required is the investigation date. The Final Date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$567

TOTAL

\$29

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603970682	Underwood, Jackie C.	Classification:	Rating:
Regulated Entity:	RN106247612	Tire Outlet Storage Site	Classification:	Site Rating:
ID Number(s):	MUNICIPAL SOLID WASTE NON PERMITTED	ID NUMBER		R04106247612
Location:	908 E ROCK ISLAND AVE, BOYD, TX, 76023			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	January 26, 2012			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	January 26, 2007 to January 26, 2012			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Thomas Greimel Phone: (512) 239-5690

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? NO
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: N/A Repeat Violator: N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
 - B. Any criminal convictions of the state of Texas and the federal government.
N/A
 - C. Chronic excessive emissions events.
N/A
 - D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 12/13/11 (958798)
 - E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
 - F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	
JACKIE C. UNDERWOOD DBA	§	TEXAS COMMISSION ON
TIRE OUTLET	§	
RN101858496, RN106260870,	§	
RN106247448, AND	§	
RN106247612	§	ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2012-0195-MSW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Jackie C. Underwood dba Tire Outlet ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Mr. Arturo D. Rodriguez and Mr. Kerry Russell of the law firm Russell & Rodriquez, L.L.P., appear before the Commission and together stipulate that:

1. The Respondent operates a scrap tire sales and scrap tire storage facility at 537 State Highway 114 in Boyd, Wise County, Texas (the "Facility"), operates a scrap tire storage and unauthorized municipal solid waste ("MSW") disposal site at 109 North Wilson Street in Boyd, Wise County, Texas ("Site 1"), owns a scrap tire storage site at 1864 County Road 4764 in Boyd, Wise County, Texas ("Site 2"), and owns a scrap tire and an unauthorized MSW disposal site at 908 East Rock Island Avenue in Boyd, Wise County, Texas ("Site 3").
2. The Facility and Sites involve or involved the management of MSW as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 21, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Forty-Seven Thousand Five Hundred Dollars (\$47,500) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid One Thousand Seventy-Five Dollars (\$1,075) of the administrative penalty and Nine Thousand Five Hundred Dollars (\$9,500) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the penalty payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Thirty-Six Thousand Nine Hundred Twenty-Five Dollars (\$36,925) of the administrative penalty shall be payable in 35 monthly payments of One Thousand Fifty-Five Dollars (\$1,055) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As operator of the Facility and Site 1 and owner of Site 2 and Site 3, the Respondent is alleged to have:

1. At the Facility, failed to obtain a generator registration and scrap tire storage site registration for the Facility prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers, or in enclosed or lockable containers, in violation of 30 TEX. ADMIN. CODE §§ 328.56(a)(1) and (d)(2) and 328.60(a), as documented during an investigation conducted on September 22, 2011. Specifically, the Respondent was storing approximately 2,800 used or scrap tires on the ground.
2. At Site 1, failed to obtain a scrap tire storage site registration prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers, or in enclosed or lockable containers, in violation of 30 TEX. ADMIN. CODE § 328.60(a), as documented during an investigation conducted on September 22, 2011. Specifically, the Respondent was storing approximately 800 used or scrap tires on the ground.
3. At Site 2, failed to obtain a scrap tire storage site registration prior to storing more than 500 used or scrap tires on the ground or 2,000 used or scrap tires in trailers, or in enclosed or lockable containers, in violation of 30 TEX. ADMIN. CODE § 328.60(a), as documented during an investigation conducted on September 22, 2011. Specifically, the Respondent was storing approximately 3,000 used or scrap tires on the ground.
4. At Site 3, failed to prevent the unauthorized disposal of MSW, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during an investigation conducted on September 22, 2011. Specifically, approximately 30 cubic yards of scrap tires and three cubic yards of metal, plastic, brush piles, roofing shingles, and drums were disposed of at the Site.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Jackie C. Underwood dba Tire Outlet, Docket No. 2012-0195-MSW-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:

- a. Immediately upon the effective date of this Agreed Order:
 - i. Cease accepting any additional scrap tires at the Facility, Site 1, Site 2 and Site 3; and
 - ii. Cease disposing of any additional MSW at Site 3.
- b. Within 30 days after the effective date of this Agreed Order:
 - i. Obtain a generator registration for the Facility, in accordance with 30 TEX. ADMIN. CODE § 328.56;
 - ii. Obtain a scrap tire storage site registration or reduce the number of tires being stored on-site to 500 or less on the ground and/or 2,000 tires in enclosed and lockable containers at the Facility, in accordance with 30 TEX. ADMIN. CODE § 328.60; and
 - iii. Obtain a scrap tire storage site registration or reduce the number of tires being stored on-site to 500 or less on the ground and/or 2,000 tires in enclosed and lockable containers at Site 1 and Site 2, in accordance with 30 TEX. ADMIN. CODE § 328.60.
- c. Within 60 days after the effective date of this Agreed Order, remove all scrap tires and other MSW from Site 3 and dispose at an authorized facility.
- d. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.i. through 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility and Sites operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and

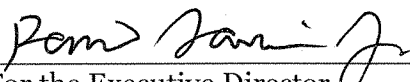
accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

10/3/12

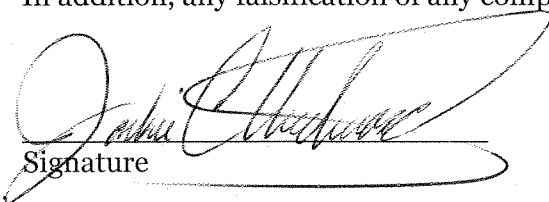
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

6-29-12

Date

Jackie C Underwood

Name (Printed or typed)
Authorized Representative of
Jackie C. Underwood dba Tire Outlet

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.